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LEGAL REGULATION OF NOISE POLLUTION IN INDIA WITH SPECIAL REFERENCE TO THE JUDGMENT IN NOISE POLLUTION (V), IN RE (2005) 5 SCC 733

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I. ABSTRACT

With the rapid progression of science and technology at an unprecedented rate, the urban areas in today's society have grown in size and in terms of the living standards they offer. This has led to a heightened awareness concerning noise pollution, which has become an integral part of our daily existence. Research studies have been conducted to determine the extent of harm caused by noise originating from various natural and artificial sources, particularly traffic. Noise has increasingly been linked to the overall well-being of individuals, encompassing mental, physical, emotional, and psychological aspects, impacting both humans and animals alike. Legally speaking, noise can be interpreted as an infringement on an individual's rights. This significantly threatens the establishment of conducive living conditions and necessitates urban planning and administrative and judicial intervention.

Noise is a byproduct of all human activities. It constitutes an integral part of our daily environment, generally acknowledged or at least endured. However, noise possesses the potential to spark discord between those producing it and those unwilling to hear it. Consequently, Noise pollution has evolved into a significant annoyance in contemporary society. Its proliferation is so rapid that it is now contaminating the societal environment. The accelerated pace of urbanization, industrialization, and technological progress has made noise pollution a pressing issue, posing a substantial threat to the quality of life in numerous nations. Humanity's ability to generate noise has experienced a remarkable escalation. Noise envelops us in various forms, such as the clamor of traffic, the

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commotion of crowds, the swift industrial expansion, and the movement of vehicles and aircraft. Furthermore, domestic settings are susceptible to noise intrusion, with loud music and barking dogs emerging as potential sources of disturbance. Indeed, the sounds produced by instruments like dhol, dhapli, bigul, and shankh have been deeply ingrained in the fabric of Indian culture since the inception of ancient societies. In ancient civilizations, the rhythmic beats of drums served as a vital method for ensuring human safety against predatory animals and were also integral to various sacred rituals. However, in contemporary society, the volume and regularity of these sounds have escalated to a point where they pose a significant danger to human well-being. The paper discusses noise pollution, how different legislations defined it, the judiciary's stand in pre-2005 and post-2005, i.e., before the landmark judgement made by the Supreme Court,[2] and the after-effects of the judgement.

II. INTRODUCTION

The term "noise" originates from the Latin term "nausea." It is described as undesired sound, posing a possible risk to health and communication, and released into the surroundings in terms of the negative impact it could have on individuals who do not wish to hear it.[3] Throughout history, humans have consistently disregarded the issue of noise pollution. However, in this era of modernization, noise pollution can no longer be neglected. Both governmental authorities and the general populace are required to implement proactive measures to mitigate noise pollution, as it adversely impacts humans, animals, and vegetation. Nobel laureate Robert Koch stated, "*There will come a time when mankind must combat noise pollution relentlessly as the most formidable foe to health.*" Noise pollution can be described as intrusive and unwelcome sounds that disrupt our daily routines unreasonably. Unlike air, water, and soil pollutants, noise was not initially recognized as an environmental hazard. Only with the onset of industrialisation and the subsequent rise in population did noise pollution emerge as a significant menace to the

[2] In Re: Noise Pollution - Implementation ... vs Unknown, (2005) 5 SCC 733
[3] Deepak Miglani, Noise Pollution: Sources, Effects & Control, Legal Service India (Last visited on March 5, 2024 at 10:09 PM) https://www.legalserviceindia.com/articles/noip.htm

ecosystem and the various species inhabiting it.[4] A research investigation carried out by the World Health Organization in 2011 posits that Europe experiences a loss of one million healthy years of life as a consequence of elevated levels of noise pollution. Moreover, emphasis is laid upon the quality of human existence in terms of health within Article 45 of the Universal Declaration of Human Rights in 1948.[5]

The decibel (dB) is the unit used within the physical or SI system for noise measurement. Examples within the decibel scale provide an apparent reference: 20 to 25 dB represents a whisper, 30 dB signifies noise in a quiet home, 60 dB reflects a normal conversation, and 80 dB indicates noise levels that become physically uncomfortable for individuals.

Noise pollution commonly arises as a consequence of various activities. It is essential to acknowledge that noise pollution always originates from a specific source, prompting a thorough examination of its origins. For instance, traffic noise is a significant contributor, with the majority of vehicles, aside from electric ones, emitting high noise levels. Given India's status as the world's second most populous nation, many individuals own either four-wheeler or two-wheeler vehicles. Typically, a standard car emits approximately 85 dB of noise, while a bike releases around 90 dB. Moreover, the prevalent habit of excessive honking further exacerbates noise pollution. Furthermore, noise pollution attributed to aircraft activities, encompassing passenger planes, cargo planes, and low-flying military aircraft, contributes significantly to the overall noise pollution levels. Although initially, passenger planes were not a primary concern, constructing new airports near residential areas has intensified the issues caused by passenger planes.[6]

Commercial and industrial operations also play a vital role in generating noise pollution. Globalization and modernization in India have substantially increased the number of large-scale and small-scale industries. These industries heavily rely on machinery for

[4] Jisha Garg, All you need to know about the legislations pertaining to noise pollution, iPleaders (Last visited on March 7, 2024 at 06:15 AM) https://blog.ipleaders.in/various-statutes-noise-pollution/
[5] Universal Declaration of Human Rights, 1948, Art.45
[6] Arkodeep Gorai, Prevention and Control of Noise Pollution, iPleaders (Last visited on March 7, 2024 at 06:12 PM) https://blog.ipleaders.in/prevention-and-control-of-noise-pollution-with-case-laws/

their operations, leading to noise pollution as a by-product. Although the impact on communities may vary, noise pollution remains a prevalent issue. Additionally, noise generated from social gatherings or events, including parties, religious ceremonies, and clubs, falls under the category of social gatherings contributing to noise pollution. Recognizing that such social events can create disturbances and generate significant noise pollution is crucial. Lastly, household activities also contribute to environmental noise pollution. The range of household noise sources is extensive, with examples such as barking pet dogs, playing loud music, and operating various kitchen appliances. These routine actions within households have a collective impact on generating noise pollution.

III. STATEMENT OF PROBLEM

In India, the issue of noise pollution has emerged as a significant environmental concern, exerting adverse effects on public health, quality of life, and overall well-being. Despite the presence of legal structures and judicial pronouncements aimed at tackling this issue, the persistent nature of noise pollution continues to pose challenges for effective enforcement and adherence. The ruling in the Noise Pollution (V) IN RE (2005) 5 SCC 733 sheds light on the complexities and deficiencies within the legal framework regulating noise pollution in India, emphasizing the necessity for comprehensive reforms and enhanced enforcement mechanisms. Given this context, the research problem revolves around critically analyzing the legislative frameworks concerning noise pollution in India, specifically focusing on the above judgement to identify gaps, barriers, and potential remedies for alleviating the negative impacts of noise pollution and promoting sustainable environmental governance.

IV. RESEARCH OBJECTIVES

The study has three main objectives that will be addressed as follows:

1. Examining the regulations and statutes concerning noise pollution will encompass pertinent legislation and significant judicial decisions.

2. Observing the highlights of the landmark ruling of Noise Pollution (V), IN RE (2005) 5 SCC 733 and evaluating their potential impact on noise pollution regulation in India.
3. Proposals for enhancing the legal framework for noise pollution in India will be recommended.

V. LITERATURE REVIEW

In their book "Environmental Law & Policy in India" (2022), S*hyam Divan and Armin Rosencranz* provide valuable insights into the intricate issue of noise pollution. *Dr. N Maheshwara Swamy* in his book "Textbook om Environment Law" exculsivey highlights about the causes & harmful effects of Noise Pollution. *Brind Kumar & Sharad V Oberoi* (2011) delve into a comprehensive discussion within their scholarly work regarding the statutes and regulatory frameworks existing at the national and international echelons. *JS Laura* and *Debokarsho Dutta* (2019) have notably underscored the legal aspects concerning noise pollution in their respective academic articles. In his scholarly article, *Ranjit Singh* (2016) critically scrutinized the legislative measures governing noise control in India. Meanwhile, *K Rajashekaran* & *Chandana Pradeep* (2020) extensively analyze the significant judicial decisions pronounced by the esteemed Courts nationwide in their respective academic contributions. *Rohan Sharma* (2020) thoroughly explores the evolving jurisprudence surrounding noise pollution in India in his research article. *Prof. Arup Poddar* (2017) meticulously examines the circumstances this study seeks to elucidate, particularly the landscape pre and post-2005 judgement.

VI. CHAPTER I: MEANING OF NOISE POLLUTION

The concept of 'Noise Pollution' remains undefined within the central legislative framework; nevertheless, it is explicitly elucidated in the Environmental Protection Act of 1986 as a form of environmental contamination.[7] This legislation empowers the central government to establish regulations stipulating the maximum allowable noise levels

[7] The Environment (Protection) Act, 1986, § 6(b)

across various regions. In Section 2 (a) of the Air (Prevention and Control of Pollution) Act, 1981, noise is encompassed within the definition of an 'air pollutant,' encompassing any solid, liquid, or gaseous substance, including noise, found in the atmosphere at concentrations that have the potential to be harmful to humans, other living organisms, plants, property, or the environment.[8] As per the Encyclopedia Britannica, acoustic noise is delineated as any sound that is not desired. In the Chambers 21st Century Dictionary, there has been a modification in the explanation of noise. Noise pollution has been distinctly identified as a term separate from noise, with the following definitions: Noise - a sound characterized as harsh and unpleasant or a racket. Pollution - an excessive or bothersome sound level within a specific region, for instance, emanating from traffic or aircraft engines.

Numerous industrial psychologists and environmental experts have defined the term "noise." Blum posits that noise functions as a distractor, thereby impeding the effectiveness of individuals. J. Tiffin asserts that noise constitutes a sound that is unpleasant to the person and disrupts their regular activities.[9] Harrell characterizes noise as "*a sound that is unwelcome and leads to increased fatigue, potentially resulting in hearing loss under certain industrial circumstances*." The Wilson Committee of Britain, in its 1963 report titled "*Noise (Final Report) commd. 2056*", defines "*noise*" as "*sound that the recipient does not desire*." Gross[10] notes that noise encompasses any undesired disturbance occurring within a proper frequency range, such as electromagnetic waves in various transmission channels or devices. As per the Environmental Health Criteria,[11] "*noise is defined as any unwelcome sound that has the potential to negatively impact the health and overall well-being of individuals or communities.*"

[8] The Air (Prevention and Control of Pollution) Act, 1981, § 2(a)
[9] Ranjit Singh, Legal Control of Noise Pollution, SCC OnLine Times (Last visited on March 8, 2024 at 11:24 AM) https://www.scconline.com/blog/post/2016/07/27/legal-control-of-noise-pollution-a-critical-evaluation/#_ftn5
[10] Peterson and E. Gross Jr: Handbook of Noise Measurement, 210 (5th Edn. 1965)
[11] Noise published by UNEP & WHO, Geneva20 (1980)

Researchers in acoustics assert that noise levels exceeding 90 decibels for prolonged durations can lead to auditory impairment. Exposure to a single instance of 150 decibels is recognized to result in permanent damage to the inner workings of the ear. Metropolitan areas such as Mumbai, Kolkata, and New Delhi exhibit an average noise level ranging between 65 and 90 decibels. The impact of ambient noise on fetal growth during gestation has been a focal point of scientific investigation, revealing that sustained exposure to noise levels of 110 to 120 decibels can induce visual constriction, dizziness, and destabilization of balance in the developing fetus while accounting for the current rate of advancement. A notable trend indicates a doubling of noise levels every six years, consequently impairing the auditory faculties of a substantial portion of the population. Noise is distinguished by its intensity, frequency composition, and temporal variations. The term "sound level" denotes a quantifiable measure that aligns with the listener's subjective perception of loudness, contingent upon the amplitude of pressure oscillations relative to the prevailing atmospheric pressure. The assessment of these fluctuations can be articulated through various parameters, with sound intensity and pressure being among the most prevalent.

The origin of noise pollution may vary. However, its detrimental impact on humans, animals, and the ecosystem is undeniable. Initially, noise pollution went unnoticed and did not raise significant concerns, but over the past century, it has become widespread and severe. The adverse consequences of noise pollution include:

- **Lack of focus -** Noise pollution reduces concentration levels in many individuals. A quiet work environment enhances an individual's productivity. Excessive noise levels can trigger headaches, which hinder concentration.
- **Hypertension -** Noise pollution escalates stress levels in individuals, contributing to mental health issues and ultimately leading to high blood pressure.
- **Miscarriage -** A calm and tranquil environment is essential during childbirth; excessive noise can agitate the baby and potentially result in a miscarriage.

- **Hearing loss -** Among the numerous harmful effects of noise pollution, hearing loss is prevalent. Prolonged exposure to high noise levels can cause temporary or permanent deafness.
- **Impact on vegetation and crops -** Plants, akin to humans, are sensitive to loud noises. Excessive noise exposure significantly diminishes crop quality.
- **Impact on wildlife -** Noise pollution significantly threatens animals, damaging their nervous systems. Due to their limited cognitive abilities compared to humans, animals are more susceptible to the detrimental effects of noise pollution.

VII. CHAPTER II: NOISE AS NUISANCE & HEALTH HAZARD

Exposure to noise over an extended period results in numerous significant health implications, whether temporary or permanent. This phenomenon occurs due to the human body's inherent adaptation to specific thresholds of noise exposure. Once these thresholds are surpassed, the human body becomes significantly impacted by the exposure to unwanted sound, with hearing loss being an expected outcome. Hearing loss represents a disability whereby individuals cannot perceive auditory stimuli from their surroundings due to the dysfunction of their auditory organs. Another consequence of noise pollution is the disruption of effective communication, where individuals may need help to engage in proper discourse.[12] An illustration of this scenario could be a teacher delivering a lesson to students, only to be interrupted by loud music from a nearby speaker, hindering the students' ability to grasp the information effectively.[13]

Sleep disturbances are a key repercussion of prolonged exposure to high noise levels, contributing to the myriad health risks of noise pollution. The inability to attain restful sleep makes individuals more susceptible to various illnesses, resulting in frequent

[12] Dr. N Maheshwara Swamy, Textbook on Environmental Law, 261(5) (2nd Ed.2007-08)
[13] Prof.Arup Poddar, Noise Pollution Control & in Re Noise Pollution Case, Vol.5 Issue 4, IJAR, 1544, 1545-1546 (2017) https://www.researchgate.net/publication/316837337_NOISE_POLLUTION_CONTROL_AND_IN_RE_NOISE_POLLUTION_CASE

physical ailments. Furthermore, performance issues may arise when individuals are consistently exposed to noise levels exceeding tolerable limits. This is attributed to noise pollution's interference with hormonal functions, subsequently impacting an individual's alertness and, ultimately, their performance outcomes. Continuous exposure beyond acceptable thresholds can also lead to irritability in individuals, as prolonged noise exposure disrupts mental stability and hormonal balance, altering one's demeanor and causing annoyance to others.

Sustained exposure to high noise levels can also have psychological implications for individuals. Increased heart rates, abnormal blood flow to the brain, and subsequent psychological effects are plausible outcomes when individuals endure high noise exposure levels. Moreover, noise pollution can exacerbate other forms of stress within the human body, potentially leading to cardiovascular, neurological, renal, visual, dermatological, sleep-related, hormonal, and other health issues. The noise has a detrimental effect on fetuses as well. Expectant mothers who are subjected to prolonged periods of high noise levels may give birth to infants with impairments. Fetuses exposed to excessive noise levels could experience hearing impairment, develop cardiovascular issues, encounter challenges with brain development, and potentially face neurological complications.[14]

VIII. CHAPTER III: SOURCES OF NOISE POLLUTION

Noise pollution, like other contaminants, is a consequence of industrialization, urbanization, and modern civilization. Generally, noise pollution emanates from two sources: industrial and non-industrial. The industrial source comprises noise from various industries and large machines operating at high speeds and intensities. On the other hand, non-industrial noise originates from transport/vehicular traffic and neighborhood activities. Furthermore, noise pollution can be categorized into natural and

[14] Ibid

artificial sources. The primary noise sources include road traffic, aircraft, railroads, construction, industry, noise within buildings, and consumer products.[15]

1. **Road Traffic Noise-** In urban areas, traffic noise primarily stems from the engines and exhaust systems of automobiles, small trucks, buses, and motorcycles. Additionally, the layout of narrow streets and tall buildings can create a canyon effect that amplifies traffic noise.
2. **Aircraft Noise-** The issue of low-flying military aircraft has introduced a new level of community disturbance in recent years. Efforts to enhance low-altitude aircraft operations over national parks and wilderness areas have drawn significant national attention due to the resultant noise.
3. **Railroad Noise-** The noise of locomotive engines, horns, whistles, and rail yard operations can adversely affect nearby communities and railroad employees. For instance, rail car retarders can generate a piercing screech reaching high decibel levels, impacting nearby residents and workers.
4. **Construction Noise-** The construction of highways, city streets, and buildings contributes significantly to urban noise pollution. Sources of construction noise include pneumatic tools, air compressors, bulldozers, dump trucks, and pavement breakers.
5. **Industrial Noise-** While industrial noise is not as widespread as other noise issues, residents near noisy manufacturing facilities may experience disturbances from fans, motors, and compressors. Interior noise can also affect the community through open windows and walls, with industrial workers particularly vulnerable to noise-induced hearing loss.

[15] Smriti Roy, Noise Pollution & its Legal Framework in India, Academia (Last visited on March 9, 2024 at 12:34 PM) https://www.academia.edu/30960468/NOISE_POLLUTION_AND_ITS_LEGAL_FRAMEWORK_IN_INDIA

6. **Building Noise-** Residents in apartments often face disturbances from internal building noise, especially in poorly designed structures. Internal noise from plumbing, generators, and air conditioners, as well as external noise from emergency vehicles and city activities, can be disruptive, particularly when windows are open or insulated.

7. **Noise generated by consumer products-** Various domestic appliances, like vacuum cleaners and specific kitchen gadgets, have historically produced noise. This trend persists, albeit their impact on daily noise exposure is often relatively minor.

8. The occurrence of fireworks and the resulting noise pollution constitute an additional source of environmental noise in India. This phenomenon is attributed to the diverse religious practices, societal structures, communities, festivities, and celebrations present in the country. Fireworks are customary during various occasions such as Independence Day, Republic Day, New Year's celebrations, weddings, religious rituals, birthdays, and social gatherings. An intriguing aspect to consider is the legal perspective; in a case involving a religious community,[16] the Calcutta High Court emphasized that Article 19 of the Indian Constitution[17] guarantees the right to freedom of speech and expression, encompassing the right to choose not to listen or to maintain silence. Consequently, the entitlements to leisure, rest, silence, and the freedom to not listen are considered inherent components of this constitutional provision. Consequently, the fireworks staging may infringe upon the abovementioned rights, particularly for individuals seeking to uphold their right to avoid exposure to unwanted noise.

[16] Om Birangana Religious Society v. State, (1996) 100 CWN 617
[17] The Constitution of India, 1949, Art.19

IX. CHAPTER IV: NOISE POLLUTION CONTROL IN OTHER COUNTRIES

In the United Kingdom, a legislative framework known as the Noise Act of 1996 stipulates that individuals residing in a particular area must refrain from generating disruptive noise using various equipment between 11 PM and 7 AM. Should such noise disturbance affect neighboring dwelling units, the relevant authorities must respond accordingly, which may involve seizing the equipment causing the disturbance. The Noise and Statutory Nuisance Act of 1993 specifically addresses the management and prevention of noise in public spaces and outdoor environments, granting authorities the power to impose fines on offenders as a deterrent against noise pollution.

The United States is governed by the US Noise Pollution and Abatement Act of 1970, which grants the Environmental Protection Agency extensive authority to implement measures to curb and prevent noise pollution. This legislation identifies the primary sources of noise pollution, establishes acceptable noise levels in different settings, and promotes the advancement of quieter equipment and vehicles.

In Japan, the Noise Regulation Law of 1968 plays a crucial role in overseeing the regulation and mitigation of noise pollution from industrial activities, commercial operations, and factory processes that pose risks to human health and the environment.

Within the Republic of China, the Prevention and Control of Pollution from Environmental Noise Act of 1996 is committed to executing all feasible strategies to manage noise occurrences effectively. Furthermore, this legislation outlines measures to foster improved living conditions for individuals, specifically focusing on safeguarding human health.

In New South Wales, Australia, the Environmental Protection Authority is mandated to enforce regulations outlined in the Noise Control Act of 1975, ensuring strict oversight of noise pollution and setting forth standards for permissible noise emissions from factories and commercial establishments. Additionally, the Noise Control (Miscellaneous Articles)

Regulation of 1995 has been enacted to address noise pollution within residential areas, while the Noise Control (Motor Vehicles and Motor Vehicles Accessories) Regulation of 1995 focuses on regulating noise levels generated by motor vehicles.

X. CHAPTER V: STATUTORY LAWS REGARDING NOISE POLLUTION IN INDIA

A. Under the Indian Constitution

The rapid advancement of industries, urbanization, and the continuous migration of individuals from rural to urban regions have significantly contributed to environmental deterioration. Nevertheless, responsible governing bodies such as the Pollution Control Board cannot afford to remain inactive because they need more financial or other resources for pollution regulation while endorsing environmental conservation. Furthermore, Article 21 of the Indian Constitution ensures the right to life,[18] and Article 51 A (g)[19] emphasizes the obligation to safeguard and enhance the natural environment, encompassing forests, lakes, rivers, and wildlife, and displaying empathy towards all living beings. Similarly, Article 48A[20] underscores the importance of environmental protection, forest conservation, and wildlife preservation, urging the State to strive to enhance and safeguard the nation's environment, forests, and wildlife.

B. Under Tort Laws

The presence of noise in India can be subject to legal action according to the principles of tort law. It is notable that within the Indian legal framework, there is a lack of specific legislation addressing noise-related issues, unlike several other nations that have implemented dedicated laws to tackle the problem of noise pollution. Despite scattered noise control regulations, the escalating noise pollution levels pose a significant threat to public health. Recent scientific studies have demonstrated that prolonged exposure to high noise levels can lead to physical and psychological harm, directly impacting an

[18] The Constitution of India, 1949, Art.21
[19] The Constitution of India, 1949, Art.51A(g)
[20] The Constitution of India, 1949, Art.48A

individual's well-being. Consequently, excessive noise can be interpreted as a type of aggression and violation within the realm of tort law, warranting legal action to be taken by the judiciary. The remedies available within tort law, a body of law developed by judges, serve as a crucial mechanism through which judicial intervention can effectively address the issue of noise pollution. In cases where noise pollution reaches a level of being considered a nuisance, legal action for the tort of 'nuisance' becomes a viable recourse.

Private legal actions in the region may pertain to public nuisance as outlined in Section 290 of the Indian Penal Code, 1860.[21] This particular section delineates the consequences for instances of public nuisance. Should an individual experience hearing impairment or any form of injury due to actions carried out by the Government within the realm of its non-sovereign duties, the Government may be deemed accountable for compensation under Article 299 of the Indian Constitution.[22] In some situations, constraints may be imposed on the viability of initiating legal proceedings concerning nuisance. Within urban settings, the identification of an endless array of noise pollution sources can prove to be challenging. The requirement to substantiate the dangers posed by noise pollution could present formidable obstacles to a plaintiff's case. In specific scenarios, private citizens may not have the right to file a lawsuit if it conflicts with a broader public interest, such as the development of highways, establishment of airports, forest clearance operations, municipal green belt creation, and similar large-scale initiatives.

Nevertheless, these stipulations do not establish consistent and definitive guidelines for addressing criminal nuisance cases. The Indian Penal Code was formulated at a time devoid of contemporary scientific and industrial advancements. Hence, the drafters should have anticipated the prevalence of noise pollution caused by various modern societal irritants. The provisions within the Indian Penal Code are deemed insufficient in addressing the escalating threat of noise pollution. Instances within the Penal Code where noise-emitting entities are utilized under the guise of statutory regulations. Essentially,

[21] The Indian Penal Code, 1860, § 260, No.45, Acts of Parliament, 1860 (India)
[22] The Constitution of India, 1949, Art.299

such entities, such as locomotives, airplanes, helicopters, and the like, are legally permitted to generate noise.

C. Under the Criminal Procedure Code

The regulations outlined in the Criminal Procedure Code of 1973 (CrPC) can be utilized to prevent various forms of pollution, including noise pollution. Executive Magistrates are granted the authority to issue specific conditional orders under sections 133[23] and 144[24] of the Criminal Procedure Code. These provisions enable the Magistrate, based on a police report or other information, to address public nuisances or activities that may threaten the community's well-being, such as noise pollution, falling under the jurisdiction of the sections mentioned earlier of the Code. The purpose of such directives is to address temporary law and order issues, with the duration of these orders typically lasting for two months.

D. Under the Civil Procedure Code

Under the provisions of the Civil Procedure Code 1908, measures of a preventive nature can be implemented in the event of a public nuisance. According to Section 91 of the Civil Procedure Code, legal action can be initiated in situations involving public nuisance or any other wrongful act that impacts or has the potential to affect the general public.[25] Such legal action can include filing a lawsuit for a declaration, seeking an injunction, or requesting any other appropriate relief based on the case's specific circumstances. This lawsuit can be filed by the Advocate General or, with the court's permission, by two or more individuals, even if these individuals have not incurred any special damages due to the public nuisance or wrongful act in question. It is important to note that the provisions of this section do not restrict or alter any existing rights to file a lawsuit that may be independent of its regulations.

[23] The Code of Criminal Procedure, 1973, § 133, No.2, Acts of Parliament, 1973 (India)
[24] The Code of Criminal Procedure, 1973, § 144, No.2, Acts of Parliament, 1973 (India)
[25] The Code of Civil Procedure, 1908, § 91, No.5, Acts of Parliament, 1908 (India)

E. Under the Indian Penal Code

Chapter 14 of the Indian Penal Code addresses specific violations on public health or safety. These transgressions encompass actions that have an impact on public well-being. Noise pollution is discussed in Section 268, Section 287, Section 288, Section 290, Section 291, and Section 294.

- Section 268 pertains to public nuisance and identifies individuals who engage in activities leading to potential harm, annoyance to the public, or obstruction. Consequently, the perpetration of noise pollution falls within the purview of Section 268.[26]
- Section 287 focuses on the irresponsible operation of machinery, where mishandling equipment can result in harm. Thus, individuals who cause noise pollution through machinery may face a penalty of imprisonment for up to six months or a fine of Rs. 1000.[27]
- Section 288 stipulates that individuals involved in construction or repairs will be held accountable if negligence leads to harm, with consequences including a six-month imprisonment term and a Rs. 1000 fine.[28] During construction or renovation projects, noise pollution is a prevalent issue that can jeopardize public safety. Perpetrators of such noise pollution are subject to penalties under Section 288 of the Indian Penal Code.
- Section 290 refers to other forms of public nuisance not explicitly outlined in the Indian Penal Code. Instances of noise-related disturbances not covered by the code resulting in public nuisance incur a fine of Rs. 200.[29]

[26] The Indian Penal Code, 1860, § 268, No.45, Acts of Parliament, 1860 (India)
[27] The Indian Penal Code, 1860, § 287, No.45, Acts of Parliament, 1860 (India)
[28] The Indian Penal Code, 1860, § 288, No.45, Acts of Parliament, 1860 (India)
[29] The Indian Penal Code, 1860, § 290, No.45, Acts of Parliament, 1860 (India)

- Section 291 indicates that individuals persisting in causing public nuisance despite court injunctions prohibiting such behavior face a penalty of six months imprisonment or a fine.[30]
- Section 294 addresses indecent songs, highlighting that playing, reciting, or singing such songs constitutes a nuisance. Offenders engaging in such conduct may face a three-month jail term, a fine, or both.[31]

F. Under the Aircraft Act, 1934

The Central Government is endowed with the authority to establish regulations under the Aircraft Act, 1934 concerning the production, ownership, utilization, operation, vending, as well as the importation or exportation of any aircraft, encompassing the oversight of air transportation services and the prescription of aircraft utilisation.[32] Nonetheless, there needs to be a comprehensive strategy for noise pollution management. Within this legislative framework, it is recommended that airstrips be situated at a considerable distance from residential zones within urban areas to safeguard inhabitants against the disturbances caused by frequent aircraft take-offs and landings. The Indian Aircraft (Public Health) Rules of 1946 empower the government to institute regulations for noise pollution mitigation. These regulations entail a legal responsibility for the industrial facilities to institute appropriate measures to contain noise emissions. Consequently, governmental authorities can enact rules to curb the noise emissions produced by aircraft and implement various measures to safeguard the populace from potential health risks.

G. Under the Railways Act, 1861

A substantial quantity of sound is discharged from locomotive engines and carriages. The Railway Act, 1890 does not impose any restrictions to alleviate this auditory pollution. Locomotive engines benefit from legal protection, rendering individuals unable to seek

[30] The Indian Penal Code, 1860, § 291, No.45, Acts of Parliament, 1860 (India)
[31] The Indian Penal Code, 1860, § 294, No.45, Acts of Parliament, 1860 (India)
[32] The Aircraft Act, 1934, § 5, No.22, Acts of Parliament, 1934 (India)

recourse against them despite being significant sources of pollution. Section 16 of the Railway Act of 1890 confers legal authority upon railway administrations for the operation of locomotives.[33]

Under English Common Law, the operation of engines posing a threat would constitute a legal nuisance, and proving that they have been secured would not serve as a valid defense. The case of Railway Company v Truman[34] established that the legal safeguards enjoyed by railway companies do not provide immunity for nuisances such as noise and vibrations inherent in their operations. In the Indian context, railway engines are unrestricted in generating noise levels, with no regulatory oversight. The Railways Act, 1989 stipulates penalties for creating nuisances, including those caused by excessive noise. Individuals engaging in offensive behavior may face expulsion from the railway premises, forfeiture of tickets and passes, as well as a possible sentence of six months' imprisonment and a fine of Rs.500.[35]

H. Under the Police Act, 1861

The legislation known as the Police Act, 1861 addresses the issue of noise pollution stemming from music, specifically focusing on one of its components. Within the framework of this legislation, Superintendents of Police hold the authority to oversee the permissible levels of musical activities taking place in public spaces during festivals and ceremonies.[36] Nevertheless, it is crucial to note that the scope of this particular provision is quite restricted, as it solely pertains to controlling the problem of musical noise in public settings during festivals and ceremonies, while remaining silent on issues related to musical noise originating from private properties or during events other than festivals and ceremonies.

[33] The Railways Act, 1890, § 16
[34] 11 AC 43 (1895)
[35] The Railways Act, 1989, § 145(b), No.24, Acts of Parliament, India (1989)
[36] The Police Act, 1861, § 30(4), No.5, Acts of Parliament, India (1861)

I. Under the Air (Prevention and Control of Pollution) Act, 1981

Although originally designed to regulate air pollution, the Air (Prevention and Control of Pollution) Act 1981 was expanded to encompass noise pollution through the Amendment Act of 1987. Despite the absence of specific provisions targeting noise pollution in this legislation, measures for its control can be implemented through various sections. For instance, Section 16(2)(6) of the Air Act[37] mandates the Central Pollution Control Board to develop and implement a nationwide program to prevent, control, or reduce air pollution. Similarly, the State Pollution Control Board, empowered by this Act,[38] can incorporate noise pollution in its comprehensive strategies for addressing air pollution, establishing noise standards alongside those for air pollutants in relation to industrial activities and vehicles.[39]

J. Under the Environment (Protection) Act, 1986 and the Environment (Protection) Rules, 1986

Section 6 of the Act[40] confers authority upon the government to promulgate regulations for the control of environmental pollution. Within the confines of this Section,[41] the Central Government is vested with the ability to establish regulations stipulating "*the maximum permissible thresholds of concentration of various environmental contaminants (including noise) in different regions.*" Consequently, the Central Government possesses the capacity to govern noise pollution by defining the utmost allowable levels of noise within the surroundings. Furthermore, the Central Government holds a broad mandate to undertake actions aimed at safeguarding and enhancing environmental quality, as well as preventing, managing, and mitigating environmental pollution.[42] In alignment with this, the central government has introduced the Environment (Protection) Rules, which

[37] The Air (Prevention and Control of Pollution) Act, 1981, § 16(2)(6), No.14, Acts of Parliament, India (1981)
[38] The Air (Prevention and Control of Pollution) Act, 1981, § 17(1), No.14, Acts of Parliament, India (1981)
[39] The Air (Prevention and Control of Pollution) Act, 1981, § 17(1)(g), No.14, Acts of Parliament, India (1981)
[40] The Environment (Protection) Act, 1986, § 6, No.29, Acts of Parliament, India (1986)
[41] The Environment (Protection) Act, 1986, § 6 (2)(1), Acts of Parliament, India (1986)
[42] The Environment (Protection) Act, 1986, § 3, Acts of Parliament, India (1986)

outline the maximum permissible thresholds of diverse environmental contaminants, including noise. Schedule-1, Entry 89 of the Environment (Protection) Rules, 1986, delineates the noise criteria for firecrackers and explicitly prohibits the production, sale, or utilization of firecrackers that produce noise levels surpassing 125 db(A) or 145 db(C) at a distance of 4 meters from the detonation site.

K. Under the Motor Vehicle Act, 1988

Under the provisions of Section 110(1) of the Motor Vehicles Act 1988,[43] the Central and State Governments possess the authority to establish regulations of the maintenance of motor vehicles and the regulation of noise emissions. The rules outlined within the aforementioned Act delegate specific executive officers, as stipulated in Chapter XIII, the power to enforce measures against individuals found to be in breach of said regulations. Prohibition of the utilization of particular types of horns and restrictions on horn usage in designated areas such as hospitals and educational institutions are articulated in Rule 21 of the Central Motor Vehicles Rules 1989, also known as the Rules of the Road Regulations. Furthermore, following Chapter V of the aforementioned rule, all motor vehicles are mandated to be equipped with silencers to mitigate noise levels at the source.

L. Under the Noise Pollution (Regulation and Control) Rules 2000

The rationale behind introducing these regulations was based on the premise that the sound produced by amplifiers, vehicle horns, construction work, audio systems, factories, and other machinery has a negative influence on individuals' physical and physiological development. These regulations were established to mitigate the problem of elevated noise levels stemming from these sources and to foster a conducive environment for promoting well-being.

The noise pollution regulations prohibit the operation of amplifiers during nighttime and include clauses for penalties where authorization for using such devices has yet to be obtained from a competent body. Nevertheless, these regulations have been deemed

[43] The Motor Vehicles Act, 1988, § 110(1), No.59, Acts of Parliament, India (1988)

insufficient and have yet to be effectively enforced despite repeated directives from the highest court in the country.

The Noise Pollution Control Regulation underwent modifications in 2000 by the Indian authorities intending to address and constrain noise pollution, incorporating it into The Environment Protection Act of 1996.

Within this regulation, regions were classified by the government as either industrial, commercial, or residential zones, with specific noise level limits prescribed for each category. Furthermore, the regulation stipulated that an area extending 100 meters from any hospitals, schools, universities, or court premises must be designated as a quiet zone, where noise levels should be kept to a minimum.

During the daytime, the permissible noise levels in industrial zones are set at 75 dB, while commercial areas are restricted to 65 dB, residential areas to 55 dB, and quiet zones to 50 dB. Conversely, at night, noise levels in industrial zones should not exceed 70 dB, commercial areas should maintain levels below 55 dB, residential areas should be limited to 45 dB, and quiet zones to 40 db. Moreover, the regulation mandates that the operation of any loudspeaker requires prior authorization from the appropriate body, with a prohibition on usage between 10 p.m. and 6 a.m. Violations of these rules constitute an offense, subjecting the perpetrator to legal consequences and monetary penalties.

XI. CHAPTER VI: MAJOR JUDICIAL PRONOUNCEMENTS

In the case of *Moulana Mufti Syed vs State of West Bengal and Ors*,[44] certain limitations were imposed in the State of West Bengal with regards to the utilization of microphones, specifically, prohibiting their use between the hours of 9 p.m. and 7 a.m., allowing only public authorities to make use of them during this period. Subsequently, the petitioners lodged a writ application, contending that the practice of azaan holds religious significance for them, and thus, the imposed restrictions contravene their rights under

[44] AIR 1999 CAL 15

Article 25,[45] which guarantees freedom of religion. Upon review, the court dismissed their petition, asserting that individuals cannot be compelled to listen to azaan, and therefore, the aforementioned restrictions do not infringe upon their rights as outlined in Article 25. Additionally, the authorities directed the police in the State of West Bengal to confiscate any microphones being used prior to 7 a.m.

The appellant, in the case of *Ram Autar vs State of Uttar Pradesh*,[46] was engaged in the trade of selling vegetables. During the selling process, he employed auctions to determine the prices of the vegetables, resulting in disturbances and inconveniences. Although these auctions were initially conducted in private, they still led to disruptions. A legal injunction was issued by the Court to halt the auctioning activities. However, the Supreme Court later overturned this decision, citing Section 133 of the Criminal Procedure Code (CrPC) and emphasizing that Section 133 was not intended to prohibit such commercial activities solely based on disruptions and inconveniences. Consequently, the appellant was granted permission to continue his actions.

In *Church Of God (Full Gospel) In India vs K.K.R. Majestic Colony Welfare Association & Ors.* case,[47] the Supreme Court ruled that it possesses full authority to control noise pollution in the surrounding environment and can also establish regulations concerning this matter, even in cases where the noise originates from religious practices. Furthermore, it was determined that the decision to ban the utilization of loudspeakers did not violate the freedom of religion. While engaging in prayer is considered a fundamental aspect of religious freedom, the utilization of loudspeakers and similar equipment for this purpose is not encompassed within the realm of religious rights. Any behavior that disrupts societal tranquility and poses a hindrance to the peaceful coexistence of individuals cannot be sanctioned. The court argued that the use of loudspeakers disturbs the rest of

[45] The Constitution of India, 1949, Art.25
[46] AIR 1962 SC 1794
[47] 2001 (10) SCC 624

children and elderly individuals during their designated sleeping periods, thus justifying its prohibition.

In the case of *Chairman, Guruvayur Devaswom Managing Committee, Guruvayur v. Sup. of Police*,[48] a petition was lodged under Article 226 of the Constitution of India challenging a police directive to remove a speaker unit installed for a festival. It was contended by the respondent that the said speaker unit poised significant harm to hearing and had been installed without proper authorization. Subsequent to the filing of the petition, a sole judge granted a temporary halt; subsequently, the Guruvayur temple authorities sought expert advice from the Kerala State Pollution Control Board regarding the use of horn-type speaker units. The findings of the State Pollution Control Board indicated that no noise pollution would occur if the speakers were placed at a height of three meters within the temple premises. The court endorsed the expert assessment of the Pollution Control Board, permitting the deployment of horn-type loudspeakers, and instructed the police authorities to approve the installation by the temple's Management Committee.

The ruling in *Bijayananda Patra v. Dist. Magistrate, Cuttack*,[49] established that noise is recognized as undesired sound that can negatively impact individuals' well-being. Noise pollution signifies the presence of unwelcome sounds within a given environment.

In the case of *Citizen Council Jamshedpur v. State of Bihar*,[50] a Public Interest Litigation (PIL) was dismissed by the High Court of Patna. In this instance, residents of the area filed a PIL under Article 226 seeking to revoke the authorization granted to the Handloom and Khadi Board to hold an exhibition in a public park. The petitioners argued that the park is utilized for recreational activities such as morning walks and children playing, and that the exhibition would lead to both air and noise pollution. Upon reviewing all aspects of the case, the Court determined that as the petitioners failed to provide evidence demonstrating the exhibition would pose health risks or create noise pollution, and

[48] AIR 1998 Ker 122
[49] AIR 2000 Ori. 70
[50] AIR 1999 Pat 1

considering that the exhibition was already underway, the petition could not be sustained.

Personal liberty encompasses a collection of entitlements crucial for the sustenance of human life. The highest judicial body in India, the Supreme Court, emphasized in the case of *Maneka Gandhi vs. Union of India*[51] that the term "personal liberty" extends beyond the freedom of individuals to encompass liberties and entitlements linked to the individual (jus-personam).

In the legal dispute of *AV Chandel vs. Delhi University*,[52] a panel of judges at the Delhi High Court noted that the phrase "life and personal liberty" encompasses a range of entitlements vital for the complete development of an individual's character. The concept of "personal liberty" transcends the safeguarding of bodily integrity and capabilities, encompassing all elements necessary for life enjoyment with dignity.

In the case of *Francis Coralie vs. Union Territory of Delhi*,[53] Justices P.N. Bhagwati, Fazal Ali, and Murtaza underscored the importance of life quality and its enjoyment within the scope of Article 21 by stating: "*The right to life enshrined in Article 21 cannot be limited to mere animal existence. It embodies something far beyond mere physical survival. The right to life encompasses the right to exist with dignity, and all it entails.*"

In the case of *T. Damodar Rao vs. S. O. Municipal Corporation, Hyderabad*,[54] the High Court of Andhra Pradesh deliberated on the extent to which the infringement of essential life liberties due to environmental pollution falls under the purview of Article 21. The court noted that the protection and preservation of nature's endowments, crucial for the enjoyment of life as guaranteed by Article 21 of the Constitution, are integral. It is unjustifiable to consider only the violent termination of life as a breach of Article 21. The

[51] AIR 1978 SC 597
[52] AIR 1978 Del 308
[53] AIR 1981 SC 746
[54] AIR 1987 AP 171

gradual air contamination due to environmental pollution and degradation should also be recognized as violating Article 21.

The Rajasthan High Court addressed a similar issue in the case of *LK Koolwal vs. State of Rajasthan*.[55] In this instance, when issuing a writ of mandamus against the Municipal Corporation of Jaipur, the court emphasized that maintaining health, sanitation, and the environment is encompassed within the ambit of Article 21, given its adverse impact on citizens' lives. The court highlighted that these aspects amount to a slow deterioration and reduction in citizens' life expectancy, leading to health risks.

In the case of *Kirori Mal Bishamber Dayal v The State*,[56] the defendant/petitioner was found guilty and given a sentence under Section 290 of the Indian Penal Code, 1860, along with a fine of Rs. 50 for creating disturbance through noise, smoke, and vibrations caused by the operation of heavy machinery in a residential zone. The District Magistrate affirmed the decision of the lower court upon appeal. This ruling was further upheld by the High Court of Punjab & Haryana, which rejected the revision petition.

In the matter of *Bhuban Ram and others v Bibhuti Bhushan Biswas*,[57] it was determined that the operation of a paddy husking machine during nighttime leads to a disturbance due to noise, holding the occupier accountable for prosecution under Section 290 IPC.

In the case of *Rabin Mukherjee v. State of West Bengal*,[58] the court prohibited using air horns to combat noise pollution. It was noted that the unrestricted and unlawful use of electric and air horns poses health risks, with noise pollution being a significant concern.

Regarding the *Burrabazar Fireworks Dealers Association v Commissioner of Police, Calcutta*,[59] it was established that individuals cannot be forced to endure the excessive noise generated by loud fireworks. While some may enjoy such activities, others are involuntarily subjected to the noise, infringing upon their fundamental rights as

[55] AIR 1988 RAJ 2
[56] AIR 1958 P&H 11
[57] AIR 1919 Calcutta 539
[58] AIR 1985 CAL 222
[59] AIR 1998 CAL 121

guaranteed by Article 19 and other provisions of the Constitution. Under Article 19, in conjunction with Article 21 of the Indian Constitution, citizens are entitled to a suitable environment, peaceful living conditions, undisturbed sleep at night, and the right to leisure activities.

In the case of *Appa Rao, M.S. v Govt. of T.N.*,[60] the Madras High Court (referenced in the 2005 SC decision, as mentioned in this document) issued a writ of mandamus instructing the State Government to impose stringent regulations for granting licenses for the use of amplifiers, loudspeakers, and to direct the Director-General of Police (Law and Order) to enforce a complete prohibition on the use of horn-type loudspeakers, amplifiers, and air horns in vehicles.

In the case of *P.A. Jacob v. The Superintendent of Police*,[61] the High Court of Kerala articulated that the entitlement to engage in speech encompasses the entitlement to remain silent. This implies the liberty not to receive communication nor to be compelled to receive it. An individual can refuse to read a publication or turn off a radio or television; however, preventing sound from a loudspeaker is beyond his control. The individual may be subjected to hearing content that he wishes to avoid. Such a scenario would constitute an infringement upon his right to solitude, to hear what he chooses, or not to hear what he hopes to avoid. The court concluded that no individual possesses the right to intrude upon the mental or auditory faculties of another and engage in auditory or visual assault. A loudspeaker is a mechanical contrivance. An individual cannot utilize his loudspeaker in any manner he deems fit. It is impermissible for him to use his devices to cause harm to others.

In the case of Free Legal Aid Cell Shri Sugan Chand Aggarwal, also known as *Bhagatji v Govt. of NCT of Delhi and Ors*,[62] it was determined that pollution constitutes the wrongful pollution of the surroundings resulting in tangible harm to an individual's entitlements.

[60] (1995) 1 LW 319 (Mad)
[61] AIR 1993 KER 1
[62] AIR 2001 Delhi 455

Noise can be rightfully classified as a pollutant as it taints the environment, leads to disturbances, and adversely impacts an individual's well-being. Consequently, should noise levels surpass a reasonable threshold, it would contravene Article 21 of the Constitution.

XII. CHAPTER VII: THE 2005 NOISE POLLUTION CASE

A. Facts of the Case

On January 13, 1998, a 13-year-old female was subjected to sexual assault. Her pleas for assistance went unheard due to the cacophony in the vicinity. Consequently, Shri Anil K Mittal initiated Civil Writ Petition No. 72/98 to address this matter. The petition lamented the disturbance caused by amplifiers in religious ceremonies, devotional songs, and business areas. The primary request of said petition was the strict enforcement of existing regulations against noise pollution. The Government of India established and issued the Noise Pollution Control and Regulation Rules in 1999. In 2002, adjustments were made to the regulation, allowing State Governments to authorize the usage of loudspeakers for public announcements or cultural events between 10 pm and 12 am for a maximum of 15 days. The appellant in C.A. No. of 2005 (Arising out of S.L.P. (C) No. 21851/03) raised concerns regarding the efficacy of the rules. The Kerala High Court dismissed this argument. Subsequently, the petitioner, feeling aggrieved, lodged a Special Leave petition in The Supreme Court.

The special leave and the writ petition collectively highlight numerous issues concerning noise pollution. Deeming these as cases of public importance, the Court, in its ruling dated 06/04/1998, modified the title of the writ petition from Shri Anil K Mittal to In Re: Noise Pollution Implementation of Laws for Restricting Voice of Loudspeakers and High-Volume Producing Sound System. The Court designated senior Advocate Shri Jitender Sharma and Advocate Shri Pankaj Kalra as amici curiae. Following the unfortunate demise of Shri Pankaj Kalra, Advocate Shri Sandeep Narayan assumed his responsibilities. The Union of India and the Central Pollution Control Board did not contest the writ and leave petitions. The Central Pollution Control Board provided

valuable insights through credible publications, research materials, and other pertinent documents. While supporting the petitioners, the Union of India highlighted the challenges in enforcing noise control measures. Numerous intervenors sought conflicting remedies, leading to multiple interim applications during this legal proceeding.

B. Issue

The existing cases offer a valuable opportunity to explore various inquiries, such as the nature of noise, its negative impacts, the potential conflict of noise pollution with individuals' fundamental rights, and the possible remedies that can be authorized through publicly beneficial directives.

The concept of noise, its definition, and its repercussions are significant issues to decide. Noise is characterized as unwelcome sound, contrasting with music that brings pleasure to listeners, while noise causes discomfort and irritation. Notably, some consider music to be perceived as noise by others. Nevertheless, harmonious sounds, originating naturally or through human activities, may only sometimes contribute to pollution.

Sleep disruption is a common consequence of noise intrusion. This can manifest as challenges in initiating sleep and disturbances in already asleep individuals.

The issue of aircraft noise has evolved, particularly with the emergence of concerns related to low-altitude military aircraft. The focus on enhancing "*nap-of-the-earth*" warfare capabilities has introduced a new disturbance aspect to communities. Moreover, the recent debate surrounding aircraft operations above national parks, wilderness regions, and previously unaffected areas has garnered significant national attention.

The topic of noise pollution, particularly in the unique context of fireworks, presents several key areas for consideration:

a) Identification of primary sources of noise.

b) Establishment of noise emission standards for products available in the market.

c) Advancement of products with reduced noise emissions.

C. Contentions from the Appellant Side

1. Noise is an undesired auditory disturbance, posing potential risks to health and communication when introduced into the environment due to its negative impact on individuals who do not wish to hear it. This noise pollution arises from unwanted sounds in the surroundings.

2. Noise constitutes a nuisance and a significant threat to public health. The impacts of noise pollution, whether temporary or permanent, are extensive. They encompass stress, potential hearing impairment, disruptions in communication and speech, sleep disturbances, irritability, reduced individual performance, physiological consequences such as blood vessel constriction, low birth weight in infants, and other clinical manifestations.

3. Noise pollution originates from various routine activities, including industrial operations, road traffic, aircraft movements, railway systems, construction activities, indoor noise in residential structures, and household appliances like vacuum cleaners and machinery. Notably, the use of fireworks is widespread in India, particularly during festivals, weddings, parties, and New Year celebrations, contributing significantly to air and noise pollution. The Diwali festival sees extensive use of fireworks.

4. An investigation by the Central Pollution Control Board in Delhi focused on monitoring sound levels during Diwali festivities. The findings revealed an escalation in noise levels surpassing permissible thresholds during the Diwali periods from 1999 to 2002. Consequently, addressing the issue of firecracker usage is crucial in mitigating noise pollution.

5. Several international regulations and legislations are consulted to comprehend noise pollution management in different nations. Likewise, Indian laws are taken into account. However, the challenge lies in

effectively implementing these laws in India despite their explicit provisions. Enhancing public awareness is imperative to ensure the proper enforcement of existing statutes.

6. Individuals often invoke Article 19(1) of the Indian Constitution, which guarantees freedom of speech and expression, to justify their noise-making activities as a form of expression. Nonetheless, Article 21 of the Constitution, safeguarding the Right to Life, supersedes the freedoms granted under Article 19, emphasizing that such liberties are not absolute.
7. The Right to Life extends beyond mere survival to encompass the quality and dignity of life. Living in a noisy environment is incongruent with a good quality of life. Furthermore, the freedom of speech includes the freedom of silence, allowing individuals to choose whether to listen to something. In noise pollution, individuals are deprived of this choice, thereby infringing upon their rights to freedom.

D. Contentions from the Respondent's Side

The various Interim Applications submitted throughout this case argued that firecrackers hold significance in diverse festivals and events as a cultural tradition. Consequently, imposing restrictions on them would impede cultural rights. Furthermore, it was asserted that stringent regulations could jeopardize the survival of the firecracker industry, thus risking the livelihoods of numerous employees and their families. The Government's argument highlighted the challenges they perceive in enforcing the noise control policy. The existing regulations need to be revised compared to those of other nations. The entities tasked with enforcing these regulations need clear identification. Moreover, more technically proficient administrative personnel is required to ensure effective implementation. Furthermore, more than equipment is necessary to measure sound levels.

E. Judgement

The Court recognized the concern and provided guidelines to control noise pollution within the nation.

(a) Firecrackers should be assessed based on their chemical composition rather than their noise emission, a practice that should be universally implemented until a more effective system is introduced.

(b) A complete prohibition on detonating noise-producing firecrackers is essential from 10 pm to 6 am.

(c) All producers must display information concerning the chemical composition of the firecrackers on the packaging.

(d) The noise threshold level for public areas utilizing loudspeakers must be at most 10 dB.

(e) Drums, trumpets, etc., are prohibited unless urgent between 10 pm and 6 am.

(f) The noise level produced by privately owned sound systems should not exceed 5 dB.

(g) The operation of vehicle horns is proscribed between 10 pm and 6 am in residential zones (excluding special situations).

(h) It is imperative to raise general awareness among the public about the harmful consequences of noise pollution.

(i) The government should enact the necessary measures to confiscate loudspeakers, amplifiers, and similar equipment.

The Court believed that excessive noise pollution could result in a detrimental lifestyle, contradicting the Right to Life enshrined in Article 21 of the Indian Constitution. Just as individuals have the right to speak, others possess the right to listen, either or not. The imposition of noise pollution infringes upon the right not to listen, compelling

individuals to hear it. Therefore, by issuing specific directives, the Court has upheld the principles of the Rule of Law by ensuring rigorous enforcement and adherence to the regulations.

XIII. CONCLUSION

The examination discloses that the legislation concerning noise regulation needs to be revised to address the issue of noise pollution. The existing constitutional clauses and diverse statutory regulations must be revised to manage noise pollution. Nevertheless, India has made efforts over time to tackle the problem of noise pollution and its associated impacts. Through the enforcement of multiple regulations about noise pollution, it is evident that the Indian Government is actively contributing to the prevention and regulation of Noise Pollution. Various sources of noise, such as vehicular, aircraft, and railroad noise, as well as noise produced during public events and religious celebrations, pose risks to human health and the environment when surpassing the designated threshold for ambient noise levels. Successful management of noise pollution has been achieved in countries like the UK, the US, Australia, and the Republic of China. India introduced the Noise Pollution (Regulation and Control) Rules in 2000 specifically to address the control and mitigation of noise pollution. In addition to these rules, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986 include provisions for noise pollution control. The Indian Supreme Court has struck a balance between various fundamental rights enshrined in the Indian Constitution. The court has emphasized that the right to freedom of speech and expression cannot take precedence over the right to life, and vice versa. The effective enforcement of laws related to noise pollution is crucial due to the harmful effects of prolonged exposure to noise on human health and the environment.

In conclusion, the legal regulation of noise pollution in India, as demonstrated by the landmark decision in Noise Pollution (V), IN RE (2005) 5 SCC 733, signifies a crucial advancement towards safeguarding public health and environmental well-being. This ruling highlights the judiciary's dedication to upholding the constitutional entitlement to

a clean and healthful environment, acknowledging the negative effects of noise pollution on human health and quality of life. The case establishes a precedent for strict enforcement of noise pollution laws, stressing the necessity for proactive actions to manage and alleviate noise levels in various environments, such as residential areas, commercial districts, and industrial sites. It emphasizes the importance of harmonizing developmental endeavors with environmental preservation, advocating for sustainable approaches that reduce noise disruptions.

Moreover, the decision emphasizes the importance of public involvement and awareness in confronting environmental challenges, promoting cooperative initiatives among governmental bodies, non-governmental organizations, and individuals to effectively address noise pollution. It upholds the polluter pays principle and holds responsible those who produce excessive noise, thus fostering a culture of environmental consciousness and answerability. Nevertheless, despite the forward-thinking legal structure established by this ruling, obstacles persist in ensuring the efficient application and execution of noise pollution regulations nationwide. Collaborative actions are vital to fortify monitoring systems, streamline regulatory procedures, and boost public adherence to bring about substantial reductions in noise pollution.

In essence, the ruling in Noise Pollution (V), IN RE (2005) 5 SCC 733 stands as a cornerstone in India's legal system for tackling noise pollution, offering a guideline for sustainable progress that prioritizes environmental safeguarding and public health. It underscores the judiciary's crucial role in interpreting and enforcing environmental statutes, reiterating the country's dedication to fostering a pristine, healthful, and sustainable environment for current and forthcoming generations.

XIV. RECOMMENDATIONS

Since the inception of industrialization and urbanization within the nation, noise pollution has been relegated, with lawmakers failing to allocate sufficient attention to this concern. Consequently, the existing constitutional and legislative frameworks need to be more detailed in delineating the thresholds of noise pollution in the vicinity. At present,

there is a specific legislation designed exclusively to address the issue of noise pollution within the nation. The existing remedies embedded in alternative statutes prove inadequate in dissuading individuals from perpetuating noise pollution.

The prevailing enactments like the Aircraft Act and the Environmental Protection Act, though in effect, only somewhat cater to noise regulation, serving as residual legislation. Specific dedicated provisions for noise regulation, such as the Noise Pollution Rules of 2000, need more enforcement. These rules exhibit limited scope by prohibiting loudspeakers' usage while remaining silent on other noise pollution sources. They also need to improve in promoting public awareness, resulting in a need for more public cooperation.

Within tort law, provisions offer two main remedies: the issuance of an injunction or the provision of damages. Both remedies fundamentally revolve around offering compensation, yet the predicament of community noise pollution persists. Even within the ambit of criminal law, the available remedies do not establish preventive measures and are predominantly punitive.

It is imperative to delineate the relationship between the central and state governments to establish a stringent strategy and ensure the appropriate allocation of duties. Setting minimum environmental criteria necessitates a collaborative endeavor by both governmental bodies to address potential jurisdictional conflicts. Establishing a national committee to scrutinize governmental operations and evaluate their efficacy in mitigating noise pollution is unavoidable. Equally crucial is establishing expert panels to delve into the intricacies involved.

Before devising noise control measures, policymakers must acknowledge the advancements in technology worldwide. This acknowledgment is crucial due to the ramifications of the nation's embrace of Western technology, often disregarding its subsequent negative impacts. Setting minimum noise control standards should only follow a thorough examination of recent scientific breakthroughs. This precaution is warranted as the inadequacy of prior legislation stemmed from their obsolescence in

addressing contemporary challenges. The National Committee should adopt a similar meticulous approach in granting industrial licenses and formulating routine policies.

Enhanced incentives should be extended to industrialists and farmers to promote adopting noise-reducing technology, given that industrial machinery is a principal source of noise pollution. The facilitation of incentives hinges on the successful cooperation between the central and state governments.

Lastly, public deliberation stands as a pivotal aspect of legislative formulation. Setting minimum noise pollution standards should involve public consultations. The quintessential element of legislation, namely implementation, still needs public endorsement. Legislation should prioritize public welfare to ensure its effective enforcement.

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